UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,364	06/19/2001	Johannes Hendrikus Van Lith	PB0013/US	1078

466 7590 12/10/2003

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

EXAMINER	
JOHNSON, VICKY A	
ART UNIT	**PAPER NUMBER**
3682	

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/883,364	Applicant(s) VAN LITH ET AL.	
	Examiner Vicky A. Johnson	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 November 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 8-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, and 8-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,169,369) in view of Takagi (JP-1-247841).

Masuda et al disclose a driving belt comprising: a carrier consisting of two endless band packages (34) lying side by side (see Fig 6), on which transverse elements (32) are disposed freely movable in a longitudinal direction of the band (col. 2 lines 56-65), wherein each transverse element includes two recesses (68) positioned opposite each other for receiving the band packages (see Fig 6), so that a first part (36) of the transverse element extends under the band packages, a second part (40) of the transverse element is positioned between the band packages, and a third part (38) of the transverse element extends above the band packages, wherein the front side of the first part (36) transverse element includes a tilting line (L) extending in a horizontal direction and forming a transition between a part of the element at least including the third part (38) that has a constant thickness and a part of the element wherein the thickness tapers downward away from the tilting line (see Fig 6), a projection (72) which can mate with a recess (80) in a manner allowing in the adjacent transverse element free movement of adjacent elements in the longitudinal direction of the belt (col. 2 lines

56-65), wherein the projection and the recess are at least partially formed in the second part of the transverse element (see Fig 6) and wherein the projection is disposed some distance above the tilting line (see Fig 6), which has a distance smaller than the smallest vertical component of the recess (see Fig 6), a surface (76) of the projection (72) comprises a recessed part (the surface 76 is recessed inward between the two projections 72 and 74) and the recess (80) comprises a projecting part (unnumbered surface between the recesses 80 and 82) which extend at an angle to a horizontal line in the plane in which the band packages lie (see Fig 4).

Masuda et al do not disclose that the projection and the recess extend in the horizontal direction over the entire dimension of the second part.

Takagi discloses that the projection and the recess extend in the horizontal direction over the entire dimension of the second part.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the projection and recess of Masuda et al to extend in the horizontal direction over the entire dimension of the second part as taught by Takagi in order to improve the efficiency of power transmission (Abstract).

Masuda et al do not disclose that the transverse elements are made of metal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the transverse elements of Masuda et al of metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

Re claim 2, Masuda et al show the projection and the recess are entirely located in the second part of the transverse element (see Fig 6).

Re claim 8, Masuda et al disclose the claimed invention as described above, but do not disclose the transverse element being made from a strip of material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the transverse element from a strip of material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

3. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,169,369) in view of Takagi (JP-1-247841) as applied to claims 1, 2, 8, 10 and 12 above, and further in view of Maruyama (EP-421804).

Takagi discloses the claimed invention as described above, but does not disclose that the edges of the transverse element have been deburred.

Maruyama discloses that the edges (10) of the transverse element have been deburred and rounded (see Fig 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include round the edge of the transverse element as taught by Maruyama in the driving belt of Masuda et al so that the transverse element comes into firm contact with the pulley walls (col. 3 lines 44-53).

The method of forming a device is not germane to the issue of patentability of the device itself. These limitations, "a cutting operation" and "a tumbling operation", have not been given patentable weight.

Response to Arguments

Some further comments regarding the Applicant's remarks are deemed appropriate.

The Applicant argues that the Masuda et al reference fails to meet the limitations of the claims, because the reference fails to show that the projection has a recessed part and the recess has a projecting part.

The Masuda et al reference shows in Figure 2 a surface 76 between the two projections 72 and 74. The surface 76 is a recessed part. The Masuda et al reference also shows in Figure 3 an unnumbered surface between the two recesses 80 and 82. The unnumbered surface is a projecting part. The recesses and projections also extend at an angle (180°) to a horizontal line in the plane in which the band packages lie.

The applicant's remarks have been accorded due consideration, however, they are not deemed fully persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Thursday (7:00a-5:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

vaj 12/8/03

12/9/03

DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600